

FISCAL NOTE

HB 619 - SB 1507

February 28, 2007

SUMMARY OF BILL: Increases the penalties for unlawful possession of a weapon from the current Class E to a Class D felony offense and requires a minimum five-year sentence. Punishable as a Class C felony offense for possession with intent to employ in the commission of or escape from a felony with a minimum twelve-year sentence. Punishable as a Class B felony offense for use of a handgun in the commission of or escape from a felony with a twenty-year minimum sentence. Requires these minimum sentences to be served at 100 percent with no pretrial diversion or probation, and no sentence reduction credits or parole eligibility during the term of the minimum sentence.

ESTIMATED FISCAL IMPACT:

Increase State Expenditures - \$115,694,700 / Incarceration*

Assumptions:

- The sentencing ranges for Class B, C and D felonies are 8-30 years, 3-15 years and 2-12 years, respectively. Pursuant to this bill, the minimum period of incarceration for these felonies would be 20 years, 12 years and five years, respectively. Only after serving the minimum sentence for these offenses would the offender become eligible for parole.
- According to the U.S. Census Bureau, population growth in Tennessee has been 1.09 percent per year for the past 10 years.
- According to the Department of Correction (DOC), the average operating cost per inmate per day for calendar year 2007 is \$60.16.
- According to DOC, there were 74 admissions for possession of a weapon by a convicted felon as the primary offense in 2006. Ninety percent (67) would be elevated from Class E felony offenses to Class D felony offenses and would serve an additional 4.7 years (an increase from 0.3 years to 5.0 years). Ten percent (7) would be convicted of Class D felony offenses and would serve an additional 4.4 years (an increase 0.6 years to 5.0 years).
- Sixty-seven persons will be convicted of a Class D felony offense of possession of a weapon in the first year and by the tenth year, due to population growth, there will be eight additional offenders. The maximum cost in the tenth year, as required by Tenn. Code Ann. § 9-4-

210, is based on 75 offenders serving an additional 4.7 years (1,716.68 days). The cost per inmate is \$103,275.47 ($\$60.16 \times 1,716.68$ days). The total additional operating cost for 75 offenders is \$7,745,660.25 ($\$103,275.47 \times 75$). Seven persons will be convicted of a Class D felony offense in the first year and by the tenth year, due to population growth, there will be one additional offender. The maximum cost in the tenth year is based on eight offenders serving an additional 4.4 years (1,607.10 days) The cost per inmate is \$96,683.14 ($\$60.16 \times 1,607.10$ days). The total additional operating cost for eight offenders is \$773,465.12 ($\$96,683.14 \times 8$).

- According to DOC, 2.86% of the inmate population in FY05 had possession of weapon-convicted felon as a secondary offense. Annual admissions for FY06 were 13,892 and two percent (278) were convicted of this offense. Ninety percent (250) will be convicted of a Class E felony offense of possession of a weapon in the first year and by the tenth year, due to population growth, there will be 29 additional offenders. The maximum cost in the tenth year is based on 279 offenders serving an additional 4.7 years (1,716.68 days). The cost per inmate is \$103,275.47 ($\$60.16 \times 1,716.68$). The total additional operating cost for 279 offenders is \$28,813,856.13 ($\$103,275.47 \times 279$). Ten percent (28) will be convicted of Class D felony offenses in the first year and by the tenth year, due to population growth, there will be three additional offenders. The maximum cost in the tenth year is based on 31 offenders serving an additional 4.4 years (1,607.10 days). The cost per inmate is \$96,683.14 ($\$60.16 \times 1,607.10$ days). The total additional operating cost for 31 offenders is \$2,997,177.34 ($\$96,683.14 \times 31$).
- Ten percent of the 325 (33) firearm misdemeanor convictions would have been committed by a convicted felon and would have been a misdemeanor and a secondary offense. Thirty-three persons will be convicted in the first year and by the tenth year, due to population growth, there will be four additional offenders. The maximum cost in the tenth year is based on 37 offenders serving five years (1,826.25 days). The cost per inmate at five years is \$109,867.20 ($\$60.16 \times 1,826.25$ days). The total additional operating cost for 37 offenders is \$4,065,086.40 ($\$109,867.20 \times 37$).
- 148 inmates were convicted of Class C felony offenses for reckless endangerment with a deadly weapon as a primary offense. Fifty percent (74) of those would involve firearms. Seventy-four persons will be convicted of a Class C felony offense in the first year and by the tenth year, due to population growth, there will be eight additional offenders. The maximum cost in the tenth year is based on 82 offenders. Ninety percent (74) of those offenders would serve an additional 11.1 years (an increase from 0.9 years to 12.0 years). The cost per inmate in the tenth year is \$219,734.40 ($\$60.16 \times 3,652.50$ days). The total additional operating cost for 74 offenders in the tenth year is \$16,260,345.60

(\$219,734.40 x 74). The remaining ten percent (8) would serve an additional 19.10 years (an increase from 0.9 years to 20.0 years). The cost per inmate in the tenth year is \$219,734.40 (\$60.16 x 3,652.50 days). The total additional operating cost for eight offenders in the tenth year is \$1,757,875.20 (\$219,734.40 x 8).

- Sixty-seven inmates were convicted of armed robbery with a deadly weapon as the primary offense. DOC estimates that 50% (34) of these would involve firearms. Thirty-four offenders would be convicted of a Class B felony offense in the first year and by the tenth year, due to population growth, there will be four additional offenders. The maximum cost in the tenth year is based on 38 offenders. Ninety percent (34) of those offenders would serve an additional 9.6 years (an increase from 2.4 years to 12 years). The cost per inmate is \$210,945.02 (\$60.16 x 3,506.40 days). The increase in operating cost for 38 offenders is \$8,015,910.76 (\$210,945.02 x 38). The remaining four percent (4) of those offenders would serve an additional 17.6 years (an increase from 2.4 years to 20 years). The maximum cost in the tenth year is \$219,734.40 (\$60.16 x 3,652.50 days). The total additional operating cost in the tenth year for four offenders is \$878,937.60 (\$219,734.40 x 4).
- Seventy-one inmates were convicted of voluntary manslaughter as the primary offense. DOC estimates that 18 of those offenses involved the use of a firearm. Eighteen persons will be convicted of a Class C felony offense of voluntary manslaughter involving a firearm in the first year and by the tenth year, due to population growth, there will be two additional offenders serving 19.1 additional years (an increase from a Class C felony at 0.9 years to a Class B felony at 20.0 years). The maximum cost in the tenth year is based on 20 offenders serving additional time on their sentences. The maximum cost in the tenth year is \$219,734.40 (\$60.16 x 3,652.50 days). The total additional operating cost in the tenth year for four offenders is \$4,394,688.00 (\$219,734.40 x 20).
- 964 inmates were convicted of aggravated assault. DOC estimates that 25% (241) involved a weapon and 50% (121) of those offenses involved a firearm. 121 persons will be convicted of a Class C felony offense in the first year and by the tenth year, due to population growth, an additional 14 persons will be convicted of this offense. Maximum cost in the tenth year is based on 135 offenders. Ninety percent (121.5) of these offenders will serve an additional 11.1 years (an increase from 0.9 years to 12.0 years). The cost per inmate in the tenth year is \$219,734.40 (\$60.16 x 3,652.50 days). The total additional operating cost for 122 offenders in the tenth year is \$26,807,596.80 (\$219,734.40 x 122). The remaining ten percent (13.5) would serve an additional 19.1 years (an increase from 0.9 years to 20.0 years). The cost per inmate in the tenth year is \$219,734.40 (\$60.16 x 3,652.50 days). The total additional operating

cost for 14 offenders in the tenth year is \$3,076,281.60 (\$219,734.40 x 14).

- 162 inmates were convicted of reckless aggravated assault offenses. DOC estimates that 50% (81) involved a weapon and 50% (41) of those offenses involved a firearm. Forty-one persons would be convicted of a Class D felony offense of use of a firearm during a crime in the first year and by the tenth year, due to population growth, an additional five persons would be charged with this offense. The maximum cost in the tenth year is based on 46 offenders serving an additional 11.4 years (an increase from 0.6 years to 12 years). The cost per inmate in the tenth year is \$219,734.40 (\$60.16 x 3,652.50 days). The total additional operating cost for 46 offenders in the tenth year is \$10,107,782.40 (\$219,734.40 x 46).

**Tennessee Code Annotated, Section 9-4-210, requires that: For any law enacted after July 1, 1986, which results in a net increase in periods of imprisonment in state facilities, there shall be appropriated from recurring revenues the estimated operating cost of such law. The amount appropriated from recurring revenues shall be based upon the highest cost of the next 10 years.*

CERTIFICATION:

This is to duly certify that the information contained herein is true and correct to the best of my knowledge.

A handwritten signature in black ink, reading "James W. White". The signature is fluid and cursive, with the first name "James" written in a smaller, more compact script than the last name "White".

James W. White, Executive Director